

U.S. DEPARTMENT OF COMMERCE
Bureau of Economic Analysis

**BENCHMARK SURVEY OF FOREIGN DIRECT INVESTMENT
IN THE UNITED STATES — 2002**

**INSTRUCTION BOOKLET FOR FORMS BE-12(LF),
BE-12(SF), BE-12 BANK, and BE-12(X)**

The Benchmark Survey of Foreign Direct Investment in the United States — 2002 is being conducted to collect data needed for compiling the nation's economic accounts and to provide a factual framework for addressing the concerns of policy makers and the general public about foreign direct investment in the United States. Reporting on the survey is mandatory under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 through 3108, as amended); **reports are due by May 31, 2003.** By law, the information reported may be used only for analytical and statistical purposes and, without your written permission, cannot be presented in a manner that allows it to be individually identified. A report must be filed by, or on behalf of, each U.S. business enterprise (including real estate held for other than personal use) in which a foreign person owned or controlled a direct or indirect interest of 10 percent or more at the end of the fiscal year that ended in calendar year 2002. **Electronic filing is available for all companies. See our web site at www.bea.gov/astar for details.**

Before preparing your report, please review the information contained in this ***Instruction Booklet***. When filing your report, please provide a copy of your 2002 annual financial statements as they may help us resolve questions without the need for follow-up contact. If, after reviewing the instructions, you believe you are not required to report, you must complete and return Form BE-12(X), "Claim for Exemption from Filing Form BE-12(LF), BE-12(SF), or BE-12 BANK."

The benchmark survey will provide information on an important segment of the U.S. economy. In 2000, for example, foreign-owned firms accounted for 7 percent of U.S. gross domestic product originating in private industries, 14 percent of all U.S. employment in manufacturing, and 21 percent and 30 percent, respectively, of total U.S. exports and imports of goods. The last such survey was conducted for 1997.

In designing the survey, the Bureau has sought to keep reporting burden at the minimum level consistent with meeting its obligations to collect data. Nonetheless, I recognize and appreciate your efforts to meet the reporting requirements. If you need assistance, please telephone my staff at (202) 606-5577 or contact us by e-mail at **be12/15@bea.gov**.

Thank you for your cooperation.

Sincerely,



J. Steven Landefeld
Director
Bureau of Economic Analysis

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I. REPORTING REQUIREMENTS

Authority — This survey is being conducted pursuant to the International Investment and Trade in Services Survey Act (P.L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended – hereinafter "the Act"), and the filing of reports is mandatory pursuant to Section 5(b)(2) of the Act (22 U.S.C. 3104).

The publication in the **Federal Register** of the notice implementing this survey is considered legal notice to covered U.S. business enterprises of their obligation to report. Therefore, a response is required from persons subject to the reporting requirements of the BE-12 survey, whether or not they are contacted by BEA. Also, a person, or their agent, contacted by BEA concerning their being subject to reporting, either by sending them a report form or by written inquiry, must respond in writing pursuant to section 806.4 of 15 CFR, Chapter VIII, or must respond electronically using BEA's Automated Survey Transmission and Retrieval (ASTAR) system. This may be accomplished by completing and submitting Form BE-12(X) within 30 days of its receipt, or by completing and submitting Form BE-12(LF), BE-12(SF), or BE-12 BANK by **May 31, 2003**, whichever is applicable.

Penalties — Whoever fails to report shall be subject to a civil penalty of not less than \$2,500, and not more than \$25,000, and to injunctive relief commanding such person to comply, or both. Whoever willfully fails to report shall be fined not more than \$10,000 and, if an individual, may be imprisoned for not more than one year, or both. Any officer, director, employee, or agent of any corporation who knowingly participates in such violations, upon conviction, may be punished by a like fine, imprisonment or both (22 U.S.C. 3105).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

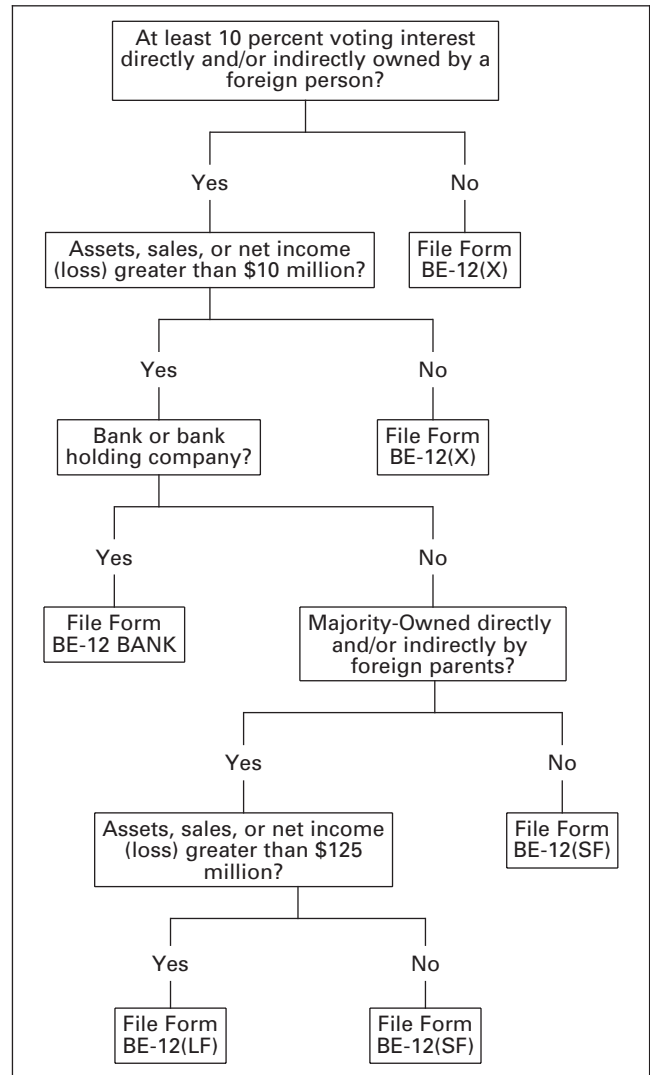
A. Who must report — A BE-12 report is required for each U.S. affiliate, i.e., for each U.S. business enterprise in which a foreign person owned or controlled, directly or indirectly, 10 percent or more of the voting securities if an incorporated U.S. business enterprise, or an equivalent interest if an unincorporated U.S. business enterprise, at the end of the business enterprise's fiscal year that ended in calendar year 2002. Small U.S. affiliates are exempt from filing a Form BE-12(LF), BE-12(SF), or BE-12 BANK. To determine if you are exempt, see I.B. on page 6 of this instruction booklet. Exempt affiliates must file Form BE-12(X).

A report is required even though the foreign person's voting interest in the U.S. business enterprise may have been established or acquired during the reporting period.

Beneficial, not record, ownership is the basis of the reporting criteria. Voting securities, voting stock, and voting interest all have the same general meaning and are used interchangeably throughout these instructions and the report form.

The flowchart that follows will help you to determine which BE-12 report you are required to file. Also review the detailed reporting requirements in sections I.A., B., and C. of this instruction booklet.

Which form to file?



1. Form BE-12(LF) Benchmark Survey of Foreign Direct Investment in the United States — 2002 (Long Form)

A Form BE-12(LF) must be completed and filed by May 31, 2003, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its fiscal year that ended in calendar year 2002, if:

- It is not a bank or bank holding company, **and**
- The ownership or control (both direct and indirect) by **all** foreign parents in the **voting securities** of an incorporated U.S. business enterprise (or an equivalent interest of an unincorporated U.S. business enterprise) at the end of the fiscal year that ended in calendar year 2002, **exceeded 50 percent** (i.e., the voting securities or equivalent interest were **majority-owned** by foreign parents), **and**
- On a fully consolidated, or, in the case of real estate investments, an aggregated basis, **any one** of the following three items--Total assets (do not net out liabilities), **or** Sales or gross operating revenues, excluding sales taxes, **or** Net income after provision for U.S. income taxes--for the U.S. affiliate (not the foreign parent's share) exceeded \$125 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2002. (**See Important Note, under I.A. 3. on page 6 of this instruction booklet.**)

I. REPORTING REQUIREMENTS — Continued

2. Form BE-12(SF) – Benchmark Survey of Foreign Direct Investment in the United States — 2002 (Short Form)

A Form BE-12(SF) must be completed and filed by May 31, 2003, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its fiscal year that ended in calendar year 2002, if:

- a. It is not a bank or bank holding company, **and**
- b. On a fully consolidated, or, in the case of real estate investments, on an aggregated basis, **any one** of the following three items--Total assets (do not net out liabilities), **or** Sales or gross operating revenues, excluding sales taxes, **or** Net income after provision for U.S. income taxes--for the U.S. affiliate (not the foreign parent's share) exceeded \$10 million (positive or negative), at the end of, or for, its fiscal year that ended in calendar year 2002, **and** EITHER c. OR d. below is applicable:
- c. The ownership or control (both direct and indirect) by **all** foreign parents in the **voting securities** of an incorporated U.S. business enterprise (or an equivalent interest in an unincorporated U.S. business enterprise) at the end of the fiscal year that ended in calendar year 2002, was **50 percent or less** (i.e., the voting securities, or equivalent interest were **not majority-owned** by foreign parents), **or**
- d. The ownership or control (both direct and indirect) by **all** foreign parents in the **voting securities** of an incorporated U.S. business enterprise (or an equivalent interest of an unincorporated U.S. business enterprise) at the end of the fiscal year that ended in calendar year 2002, **exceeded 50 percent** (i.e., the voting securities or equivalent interest were **majority-owned** by foreign parents), **and** on a fully consolidated, or, in the case of real estate investments, on an aggregated basis, **no one** of the following three items--Total assets (do not net out liabilities), **or** Sales or gross operating revenues, excluding sales taxes, **or** Net income after provision for U.S. income taxes--for the U.S. affiliate (not the foreign parent's share) exceeded \$125 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2002. (**See Important Note, under I.A. 3. below**).

3. Form BE-12 BANK Benchmark Survey of Foreign Direct Investment in the United States — 2002 (Bank Form)

A Form BE-12 BANK must be completed and filed by May 31, 2003, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its fiscal year that ended in calendar year 2002, if:

- a. It is a bank or bank holding company (see II.R. on page 7 of this instruction booklet) and,
- b. For **all** operations (banking **and** non-banking) on a fully consolidated basis, **any one** of the following three items--Total assets (do not net out liabilities), **or** Sales or gross operating revenues, excluding sales taxes, **or** Net income after provision for U.S. income taxes--for the U.S. affiliate (not the foreign parent's share) exceeded \$10 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2002. (**See Important Note, below**).

Important Note:

A U.S. affiliate that is NOT a bank or bank holding company but that owns a majority interest in a bank or bank holding company is **not** permitted to file a single fully consolidated report covering its nonbanking and bank, or bank holding company, activities. Instead, all nonbanking activities must be consolidated on a Form BE-12(LF) or BE-12(SF), whichever is applicable, and all bank and bank holding company activities must be consolidated on the Form BE-12 BANK. Banking activities owned by a nonbank must also be included on the nonbank's Form BE-12(LF) or BE-12(SF), using the equity method of accounting.

4. Form BE-12(X) — Benchmark Survey of Foreign Direct Investment in the United States 2002, Claim for Exemption from Filing Form BE-12(LF), BE-12(SF), or BE-12 BANK

A Form BE-12(X) must be completed and filed within 30 days of the date it was received, by

- a. Each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its fiscal year that ended in calendar year 2002 (whether or not the U.S. affiliate, or its agent, is contacted by BEA concerning its being subject to reporting in the 2002 benchmark survey), but is exempt from filing Form BE-12(LF), BE-12(SF), and BE-12 BANK (see I.B., below); and
- b. Each U.S. business enterprise, or its agent, that is contacted, in writing, by BEA concerning its being subject to reporting in the 2002 benchmark survey but that is not required to file the Form BE-12(LF), BE-12(SF), or BE-12 BANK.

B. Exemption — A U.S. affiliate as consolidated, or aggregated in the case of real estate investments (see I.C. below and IV.D. on page 9), is not required to file a Form BE-12(LF), BE-12(SF), or BE-12 BANK if each of the following three items--Total assets (do not net out liabilities), **and** Sales or gross operating revenues, excluding sales taxes, **and** Net income after provision for U.S. income taxes--for the U.S. affiliate (not the foreign parent's share) did not exceed \$10 million (positive or negative) at the end of, or for, its fiscal year that ended in calendar year 2002.

If a U.S. business enterprise is a U.S. affiliate but is not required to file a Form BE-12(LF), BE-12(SF), or BE-12 BANK because it falls below the exemption level, then it must complete and file a Form BE-12(X) with item 1 marked and the information requested in item 1 filled in.

C. Aggregation of real estate investments — Aggregate all real estate investments of a foreign person for the purpose of applying the reporting criteria. File a single report form to report the aggregated holdings, unless you have received permission in writing from BEA to do otherwise. Those holdings not aggregated must be reported separately. Real estate is discussed more fully in instruction IV.D. on page 9 of this instruction booklet.

II. DEFINITIONS

A. United States, when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

B. Foreign, when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States.

C. Person, means any individual, branch, partnership, association, associated group, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the U.S. Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government sponsored agency).

D. Associated group means two or more persons who, by the appearance of their actions, by agreement, or by an understanding, exercise their voting privileges in a concerted manner to influence the management of a business enterprise. The following are deemed to be associated groups:

1. Members of the same family.
2. A business enterprise and one or more of its officers or directors.
3. Members of a syndicate or joint venture.
4. A corporation and its domestic subsidiaries.

II. DEFINITIONS — Continued

- E. Foreign person** means any person resident outside the United States or subject to the jurisdiction of a country other than the United States.
- F. Direct investment** means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise.
- G. Foreign direct investment in the United States** means the ownership or control, directly or indirectly, by one foreign person of 10 per centum or more of the voting securities of an incorporated U.S. business enterprise or an equivalent interest in an unincorporated U.S. business enterprise, including a branch.
- H. Business enterprise** means any organization, association, branch, or venture which exists for profit making purposes or to otherwise secure economic advantage, and any ownership of any real estate.
- I. Branch** means the operations or activities conducted by a person in a different location in its own name rather than through an incorporated entity.
- J. Affiliate** means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting securities for an incorporated business enterprise or an equivalent interest for an unincorporated business enterprise, including a branch.
- K. U.S. affiliate** means an affiliate located in the United States in which a foreign person has a direct investment.
- K.1. Majority-owned U.S. affiliate** means a U.S. affiliate in which the combined direct and indirect voting interest of all foreign parents of the U.S. affiliate exceeds 50 percent.
- K.2. Minority-owned U.S. affiliate** means a U.S. affiliate in which the combined direct and indirect voting interest of all foreign parents of the U.S. affiliate is 50 percent or less.
- L. Foreign parent** means the foreign person, or the first person outside the United States in a foreign chain of ownership, which has direct investment in a U.S. business enterprise, including a branch.
- M. Affiliated foreign group** means (i) the foreign parent, (ii) any foreign person, proceeding up the foreign parent's ownership chain, which owns more than 50 per centum of the person below it up to and including that person which is not owned more than 50 per centum by another foreign person, and (iii) any foreign person, proceeding down the ownership chain(s) of each of these members, which is owned more than 50 per centum by the person above it.
- N. Foreign affiliate of a foreign parent** means, with reference to a given U.S. affiliate, any member of the affiliated foreign group owning the U.S. affiliate that is not a foreign parent of the U.S. affiliate.
- O. U.S. corporation** means a business enterprise incorporated in the United States.
- P. Intermediary** means any agent, nominee, manager, custodian, trust, or any person acting in a similar capacity.
- Q. Ultimate beneficial owner (UBO)** is that person, proceeding up the ownership chain beginning with and including the foreign parent, that is not more than 50 percent owned or controlled by another person. (A person who creates a trust, proxy, power of attorney, arrangement, or device with the purpose or effect of divesting such owner of the ownership of an equity interest as part of a plan or scheme to avoid reporting information, is deemed to be the owner of the equity

interest.) Note: Stockholders of a closely or privately held corporation are normally considered to be an associated group and may be a UBO.

- R. Banking** covers business enterprises engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, foreign branches and agencies of U.S. banks whether or not they accept deposits abroad, U.S. branches and agencies of foreign banks whether or not they accept domestic deposits, savings and loans, savings banks, and bank holding companies.
- S. Lease** is an arrangement conveying the right to use property, plant, or equipment (i.e., land and/or depreciable assets), usually for a stated period of time.
- 1. Capital lease** — A long-term lease under which a sale of the asset is recognized at the inception of the lease. These may be shown as lease contracts or accounts receivable on the lessor's books. The asset would not be considered as owned by the lessor.
- 2. Operating lease** — Generally, a lease with a term which is less than the useful life of the asset and a transfer of ownership is not contemplated.
- T. U.S. affiliate's 2002 fiscal year** is the affiliate's financial reporting year that has an ending date in calendar year 2002.

III. GENERAL INSTRUCTIONS

- A. Fiscal year reporting period** — The BE-12 report covers the U.S. affiliate's 2002 fiscal year. The affiliate's 2002 fiscal year is defined as the affiliate's financial reporting year that has an ending date in calendar year 2002.

Special Circumstances:

- 1. "52/53 week" fiscal year** — Affiliates having a "52/53 week" fiscal year that ends within the first week of January 2003 are considered to have a 2002 fiscal year and should report December 31, 2002 as their 2002 fiscal year end.
- 2. U.S. affiliates without a financial reporting year** — If a U.S. affiliate does not have a financial reporting year, its fiscal year is deemed to be the same as calendar year 2002.

3. Change in fiscal year

- a. New fiscal year ends in calendar year 2002** — A U.S. affiliate that changed the ending date of its financial reporting year, must file a 2002 BE-12 report that covers the 12 month period prior to the new fiscal year end date. For example, a U.S. affiliate that had a 2001 fiscal year end date of June 30, 2001 that changed its fiscal year end date to March 31, 2002 must file a 2002 BE-12 report covering the 12 month period from April 1, 2001 to March 31, 2002.
- b. No fiscal year ending in calendar year 2002** — If a change in fiscal year results in a U.S. affiliate not having a fiscal year that ended in calendar year 2002, the U.S. affiliate still must file a 2002 BE-12 report that covers 12 months of data. The following example illustrates the reporting requirements.

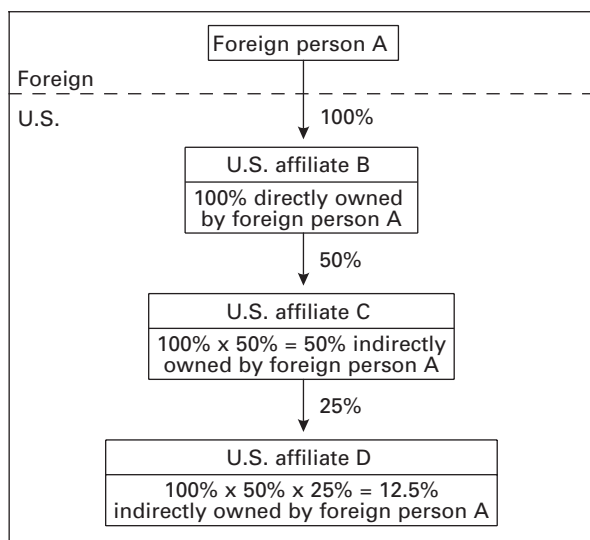
Example: U.S. affiliate B had a December 31, 2001 fiscal year end date but changed its next fiscal year end date to March 31. Instead of having a short fiscal year ending in 2002, affiliate B decides to have a 15 month fiscal year running from January 1, 2002 to March 31, 2003. Affiliate B must file a 2002 BE-12 report covering a 12 month period ending in calendar year 2002, such as the period from April 1 2001 to March 31, 2002. For 2003, assuming no further changes in the fiscal year end date occur, affiliate B must file a Form BE-15 covering the 12 month period from April 1, 2002 to March 31, 2003.

III. GENERAL INSTRUCTIONS — Continued

B. Foreign ownership interest — All direct and indirect lines of ownership held by a foreign person in a given U.S. business enterprise must be summed to determine if the enterprise is a U.S. affiliate of the foreign person for purposes of reporting.

Indirect ownership interest in a U.S. business enterprise is the product of the direct ownership percentage of the foreign parent in the first U.S. business enterprise in the ownership chain multiplied by that first enterprise's direct ownership percentage in the second U.S. business enterprise multiplied by each succeeding direct ownership percentage of each other intervening U.S. business enterprise in the ownership chain between the foreign parent and the given U.S. business enterprise.

Example: In the diagram below, foreign person A owns 100% of the voting stock of U.S. affiliate B; U.S. affiliate B owns 50% of the voting stock of U.S. affiliate C; and U.S. affiliate C owns 25% of the voting stock of U.S. affiliate D. Therefore, U.S. affiliate B is 100% **directly** owned by foreign person A; U.S. affiliate C is 50% **indirectly** owned by foreign person A; and U.S. affiliate D is 12.5% **indirectly** owned by foreign person A.



If there is more than one line of ownership from the foreign parent(s), or if other members of the affiliated foreign group(s) hold direct or indirect lines of ownership in the U.S. business enterprise, then all ownership interest lines must be summed to determine if the U.S. business enterprise is a U.S. affiliate of a foreign person.

C. Accounting methods and records — Unless otherwise specified in the instructions, follow generally accepted U.S. accounting principles when preparing the BE-12 report. Corporations should generally use the same methods and records that are used to generate reports to stockholders except where the instructions state otherwise. Prepare reports for unincorporated U.S. business enterprises on an equivalent basis.

References in the instructions to Financial Accounting Standards Board statements are referred to as "FAS."

D. Changes in the reporting entity — DO NOT restate close fiscal year 2001 balances for changes in the consolidated reporting entity that occurred during fiscal year 2002. The close fiscal year 2001 balances should represent the reporting entity as it existed at the close of fiscal year 2001. This principle applies throughout the report form. For example, in Part III of the BE-12 forms,

close fiscal year 2001 intercompany account balances should be those between the foreign parent and the U.S. affiliate as they actually existed at the close of fiscal year 2001.

E. Bearer shares — Identifying the UBO as "bearer shares" is not an acceptable response. The U.S. affiliate must pursue the identification of the UBO through the managing directors of the entity that issued the bearer shares, or any other officials or intermediaries.

F. Required information not available — Make all reasonable efforts to obtain the information required for reporting. Answer every question on each form except where specifically exempt. Indicate when only partial information is available.

G. Estimates — If actual figures are not available, provide estimates and label them as such. When data items cannot be fully subdivided as required, provide totals and an estimated breakdown of the totals. Certain sections of the Form BE-12(LF) require data that may not normally be maintained in a company's customary accounting records. Provision of precise data in these sections may present the respondent with a substantial burden beyond what is intended by BEA. This may be especially true for:

- **Part I, Items 24 thru 34** — Number of employees in each industry of sales;
- **Part II, Section D** — Distribution of sales or gross operating revenues, by whether the sales were goods, investment income, or services, and the distribution of sales of services by transactor;
- **Part II, Section G, Item 89, column (1)** — Number of acres of land;
- **Part II, Section J** — Exports and imports of U.S. affiliate on a shipped basis, by product and country; and
- **Part II, Section K** — Data disaggregated by State.

Data provided in these sections may be reasonable estimates based on the informed judgement of persons in the responding organization, sampling techniques, prorations based on related data, etc. However, the estimating procedures used should be consistently applied on all BEA surveys.

H. Specify — When "specify" is stated for certain data items, provide the type and dollar amount of the major items included in the data provided.

I. Space on form insufficient — When space on a form is insufficient to permit a full answer to any item, provide the required information on supplementary sheets, appropriately labeled and referenced to the item number on the form.

IV. SPECIAL INSTRUCTIONS

A. Insurance companies — When there is a difference between the financial and operating data reported to stockholders, and the data reported in the annual statement to an insurance department, prepare the BE-12 report on the same basis as the annual report to the stockholders. Valuation should be according to normal commercial accounting procedures, not at the rates promulgated by the National Association of Insurance Commissioners, i.e., the BE-12 report should include assets that are not acceptable for inclusion in the annual statement to an insurance department. Such assets include: **1.** non-trusted or free account assets, and **2.** nonadmitted assets such as furniture and equipment, agents' debit balances, and all receivables deemed to be collectible. Include mandatory securities valuation reserves that are appropriations of retained earnings in the owners' equity section of the balance sheet, not in the liability section.

IV. SPECIAL INSTRUCTIONS — Continued

Item on Form BE-12(LF):

- 43 CURRENT RECEIVABLES** — Include current items such as agents' balances, uncollected premiums, amounts recoverable from reinsurers, and other current notes and accounts receivable (net of allowances for doubtful items) arising from the ordinary course of business.
- 50 CURRENT LIABILITIES AND LONG-TERM DEBT** — Include current items such as loss liabilities, policy claims, commissions due, other current liabilities arising from the ordinary course of business, and long-term debt. Include policy reserves in "Other non-current liabilities," item 51, unless they are clearly current liabilities.
- 59 SALES OR GROSS OPERATING REVENUES, EXCLUDING SALES TAXES** — Include items such as earned premiums, annuity considerations, gross investment income, and items of a similar nature. Exclude income from unconsolidated affiliates that is to be reported in item 60, and certain gains or losses that are to be reported in item 61.
- 61 CERTAIN REALIZED AND UNREALIZED GAINS (LOSSES)** — See special instructions for item 61 on page 27 of the Form BE-12(LF).
- 64 COST OF GOODS SOLD OR SERVICES RENDERED, AND SELLING, GENERAL, AND ADMINISTRATIVE EXPENSES** — Include costs relating to sales or gross operating revenues, item 59, such as policy losses incurred, death benefits, matured endowments, other policy benefits, increases in liabilities for future policy benefits, other underwriting expenses, and investment expenses.
- 78 INVESTMENT INCOME** — Report that portion of sales or gross operating revenues, items 76 and 59, that is investment income (e.g., interest and dividends). However, report gains and (losses) on investments in accordance with the special instructions for item 61 on page 27 of the Form BE-12(LF).
- 79 SALES OF SERVICES** — Include premium income and income from actuarial, claims adjustment, and other services, if any.

- B. Airlines and ship operators** — U.S. stations, ticket offices, and terminal and port facilities of foreign airlines and ship operators that provide services ONLY to the foreign airlines' and ship operators' own operation are not required to report. Reports are required when such enterprises produce significant revenues from services provided to unaffiliated persons.
- C. Railroad transportation companies** — Railroad transportation companies should include only the net annual balances for interline settlement items (car hire, car repair, freight revenues, switching revenues, and loss and damage settlements) in items 43, 48, 50, 239, and 240 of Form BE-12(LF) and items 37, 38, 76, and 77 of Form BE-12(SF). Receipts or payments of the same interline settlement items should be excluded from items 254 and 256 of Form BE-12(LF) and items 90 and 91 of Form BE-12(SF).
- D. Real Estate** — The ownership of real estate is defined to be a business enterprise, and if the real estate is foreign owned, it is a U.S. affiliate of a foreign person. A BE-12 report is required unless the enterprise is otherwise exempt.

Residential real estate held exclusively for personal use and not for profit making purposes is not subject to the reporting requirements. A residence that is an owner's primary residence that is then leased by the owner while outside the United States, but which the owner intends to reoccupy, is considered real estate held for personal use and therefore not subject to the reporting requirements.

Ownership of U.S. residential real estate by a corporation whose sole purpose is to hold the real estate for the personal use of the owner(s) of the corporation is considered to be real estate held for personal use and therefore not subject to the reporting requirements.

Aggregation of real estate investments — A foreign person holding real estate investments that are reportable on the BE-12 must aggregate all such holdings for the purpose of applying the reporting criteria (see instruction I.C. on page 6 of this instruction booklet). If the aggregate of such holdings exceeds one or more of the exemption levels, then the holdings must be reported even if individually they would be exempt. In such a case, file a single Form BE-12 to report the aggregated holdings. If on an aggregated basis **any one** of the following three items--total assets (do not net out liabilities), or sales or gross operating revenues, excluding sales taxes, or net income after provision for U.S. income taxes--exceeds \$125 million (positive or negative), file Form BE-12(LF). If permission has been received in writing from BEA to file on an non-aggregated basis, you must report on a Form BE-12(LF) if a Form BE-12(LF) would have been required on an aggregated basis. Non-aggregated reports must be filed as a group and you must inform BEA that they are all for one owner.

In Part I, Identification of U.S. Affiliate, BEA is not seeking a legal description of the property, nor necessarily the address of the property itself. Because there may be no operating business enterprise for a real estate investment, what BEA seeks is a consistently identifiable name for the investment (i.e., the U.S. affiliate) together with an address to which report forms can be mailed so that the investment (affiliate) can be reported on a consistent basis for each reporting period and for the various BEA surveys.

Thus, in item 1 of the BE-12 survey forms the "name and address" of the U.S. affiliate might be:

XYZ Corp. N.V., Real Estate Investments
c/o B&K Inc., Accountants
120 Major Street
Miami, FL XXXXX

If the investment property has a name, such as Sunrise Apartments, Acme Building, etc., the name and address in item 1 of the BE-12 survey forms might be:

Sunrise Apartments
c/o ABC Real Estate
120 Major Street
Miami, FL XXXXX

There are questions throughout the report forms that may not apply to certain types of real estate investments, such as the employer identification number, the number of employees, and exports and imports. In such cases, mark the items "none."

Joint ventures and partnerships — If a foreign person has a direct or indirect voting ownership interest of 10 percent or more in a joint venture, partnership, etc., that is formed to own and hold, develop, or operate real estate, the joint venture, partnership, etc., in its entirety, not just the foreign person's share, is a U.S. affiliate and must be reported as follows:

1. If the foreign interest in the U.S. affiliate is directly held by the foreign person, then a Form BE-12(LF) or BE-12(SF) must be filed by the affiliate (subject to the exemption criteria and aggregation rules discussed above).
2. If a voting interest of more than 50 percent in the U.S. affiliate is owned by another U.S. affiliate, the owned affiliate must be fully consolidated in the Form BE-12(LF) or BE-12(SF) of the owning affiliate.
3. If a voting interest of 50 percent or less in the U.S. affiliate is owned by another U.S. affiliate, and no U.S. affiliate owns a voting interest of more than 50 percent, then a separate Form BE-12(LF) or BE-12(SF) must be filed by the owned affiliate. The BE-12 report form(s) of the owning affiliate(s) must show an equity investment in the owned affiliate.

IV. SPECIAL INSTRUCTIONS — Continued

Farms — For farms that are not operated by their foreign owners, the income statements and related items should be prepared based on the extent to which the income from the farm accrues to, and the expenses of the farm are borne by, the owner. Generally this means that income, expenses, and gain (loss) assignable to the owner should reflect the extent to which the risk of the operation falls on the owner. For example, even though the operator and other workers on the farm are hired by a management firm, if their wages and salaries are assigned to, and borne by, the farm operation being reported, then the operator and other workers should be reported as employees of that farm operation and the wages and salaries should be included as an expense in the income statement.

EXAMPLES:

1. If the farm is leased to an operator for a fixed fee, the owner should report the fixed fee in "sales or gross operating revenue," and should report the non-operating expenses that he or she may be responsible for, such as real estate taxes, interest on loans, etc., as expenses in the income statement.
2. If the farm is operated by another person on a share arrangement whereby income and expenses are shared by the owner and operator in some ratio, only the owner's share of the income should be shown in "sales or gross operating revenues," and only the owner's share of operating expenses and non-operating expenses should be shown elsewhere in the income statement, and in related items, as appropriate.
3. If the farm is operated by a management firm that oversees the operation of the farm and hires an operator, but the operating income and expenses are assigned to the owner, the income and expenses so assigned should be shown in the requested detail in the income statement, and related items, as appropriate. (The report should not show just one item, i.e., the net of income less the management fee, where the management fee includes all expenses.)

E. Estates, trusts, and intermediaries

A FOREIGN ESTATE is a person and therefore may have direct investment, and the estate, not the beneficiary, is considered to be the owner.

A TRUST is a person, but is not a business enterprise. The trust is considered to be the same as an intermediary, and should report as outlined in the instructions for intermediaries below. For reporting purposes, the beneficiary(ies) of the trust, is (are) considered to be the owner(s) for purposes of determining the existence of direct investment, except in two cases (1) if there is, or may be, a reversionary interest, and (2) if a corporation or other organization creates a trust designating its shareholders or members as beneficiaries. In these two cases, the creator(s) of the trust is (are) deemed to be the owner(s) of the investments of the trust (or succeeding trusts where the presently existing trust had evolved out of a prior trust), for the purposes of determining the existence and reporting of direct investment.

This procedure is adopted in order to fulfill the statistical purposes of this survey and does not imply that control over an enterprise owned or controlled by a trust is, or can be, exercised by the beneficiary(ies) or creator(s).

FOR AN INTERMEDIARY:

1. If a U.S. intermediary holds, exercises, administers, or manages a particular foreign direct investment in the United States for the beneficial owner, such intermediary is responsible for reporting the required information for, and in the name of, the U.S. affiliate. Alternatively, the U.S. intermediary can instruct the U.S. affiliate to submit the required information. Upon

so doing, the intermediary is released from further liability to report, provided it has informed BEA of the date such instructions were given and provides BEA the name and address of the U.S. affiliate, and has supplied the U.S. affiliate with any information in the possession of, or which can be secured by, the intermediary that is necessary to permit the U.S. affiliate to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with a foreign beneficial owner are considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner. To the extent such transactions or accounts are unavailable to the U.S. affiliate, BEA may require the intermediary to report them.

2. If a foreign beneficial owner holds a U.S. affiliate through a foreign intermediary, the U.S. affiliate may report the intermediary as its foreign parent but, when requested, must also identify and furnish information concerning the foreign beneficial owner. Accounts or transactions of the U.S. affiliate with the foreign intermediary are considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner.

F. Determining place of residence and country of jurisdiction of individuals — An individual is considered a resident of, and subject to the jurisdiction of, the country in which physically located, subject to the following qualifications:

1. Individuals who reside, or expect to reside, outside their country of citizenship for less than one year are considered to be residents of their country of citizenship.
2. Individuals who reside, or expect to reside, outside their country of citizenship for one year or more are considered to be residents of the country in which they are residing, except as provided in the next paragraph.
3. If an owner or employee of a business enterprise resides outside the country of location of the enterprise for one year or more for the purpose of furthering the business of the enterprise, and the country of the business enterprise is the country of citizenship of the owner or employee, then such owner or employee nevertheless is considered a resident of the country of citizenship, provided there is the intent to return to the country of citizenship within a reasonable period of time.
4. Individuals and members of their immediate family who are residing outside their country of citizenship as a result of employment by the government of that country -- diplomats, consular officials, members of the armed forces, etc. -- are considered to be residents of their country of citizenship.

V. FILING THE BE-12

- A. Due date** — File a fully completed and certified Form BE-12(LF), BE-12(SF), or BE-12 BANK, including all Part III's, no later than May 31, 2003. If the U.S. affiliate is exempt from filing Form BE-12(LF), BE-12(SF) and BE-12 BANK, based on the criteria in paragraph I.B. on page 6 of this instruction booklet, complete and file Form BE-12(X) within 30 days of its receipt.
- B. Mailing report forms to a foreign address** — BEA will accommodate foreign owners that wish to have forms sent directly to them. However, be aware that the extra time consumed in mailing to and from a foreign place may make meeting filing deadlines difficult. In such cases, you are strongly encouraged to use BEA's electronic filing option. Go to our web site at www.bea.gov/astar for details about this option. Go to www.bea.gov/bea/surveys/fdiusurv.htm to obtain forms on line.

V. FILING THE BE-12 — Continued

C. Extensions — For the efficient processing of the survey and timely dissemination of the results, it is important that your report be filed by the due date. Nevertheless, reasonable requests for extension of the filing deadline will be granted. Requests for extensions of more than 30 days **MUST** be in writing, should explain the basis for the request, and must be received **BEFORE** the due date of the report. You may telephone BEA directly with requests for extensions of 30 days or less. *See V.D. below.*

D. Assistance — For assistance, telephone (202) 606-5577 between 8:30 a.m. and 4:30 p.m. eastern time, FAX (202) 606-5319, or send e-mail to be12/15@bea.gov. Forms can be obtained from BEA's web site at: www.bea.gov/bea/surveys/fdiusurv.htm

E. Annual Stockholders' report or other financial statements — Business enterprises issuing annual reports to stockholders are to furnish a copy of their FY 2002 annual report or Form 10K when filing the BE-12 report.

If you do not publish an annual stockholders' report or file Form 10K, please provide any financial statements that may be prepared. Information contained in these statements is useful in reviewing your data and may reduce the need for further contact. Section 5(c) of the International Investment and Trade in Services Act, Public Law 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended, provides that this information be used for analytical and statistical purposes only and that it be held strictly confidential.

F. Number of copies — File a single original copy of each form and supplement. If you are not filing electronically, this should be the copy with the address label in Part 1, if such a labeled copy has been provided by BEA. (Make corrections to the address on the label, if necessary.) You must also retain a file copy of each report for five years to facilitate resolution of any questions that BEA may have concerning your report. (Both copies are protected by law; see the statement on confidentiality in paragraph V.H., below.)

G. Where to send the report — To file electronically, see our web site at www.bea.gov/astar.

Send reports filed by mail through the U.S. Postal Service to:

U.S. Department of Commerce
Bureau of Economic Analysis
BE-49(A)
Washington, DC 20230

Direct reports filed by private delivery service to:

U.S. Department of Commerce
Bureau of Economic Analysis
BE-49(A)
Shipping and Receiving Section, M100
1441 L Street, NW
Washington, DC 20005

H. Confidentiality — The information filed in this report may be used only for analytical and statistical purposes and access to the information shall be available only to officials and employees (including consultants and contractors and their employees) of agencies designated by the President to perform functions under the Act. The President may authorize the exchange of the information between agencies or officials designated to perform functions under the Act, but only for analytical and statistical purposes. No official or employee (including consultants and contractors and their employees) shall publish or make available any information collected under the Act in such a manner that the person to whom the information relates can be specifically identified. Reports and copies of reports prepared pursuant to the Act are confidential and their submission or disclosure shall not be compelled by any person without the prior written permission of the person filing the report and the customer of such person where the information supplied is identifiable as being derived from the records of such customer (22 U.S.C. 3104).

2002 BE-12 ORDER FORM

To obtain additional copies of BE-12 Forms and Instructions, go to our website (see V.D. on page 11 of this instruction booklet), telephone 202-606-5577, FAX 202-606-5319, e-mail **be12/15@bea.gov** or complete this order form.

Enter the quantity of each item you require:

Item	Quantity	Item	Quantity
Form BE-12 Long Form		Guide to Industry and Foreign Trade Classifications for International Surveys	
Form BE-12 Short Form			
Form BE-12 BANK Form			
Form BE-12(X) Claim for not filing			
Instruction Booklet			

PLEASE COMPLETE BELOW

Name of U.S. Reporter

Attention:

Street Address

City, State, ZIP Code

RETURN TO

U.S. Department of Commerce
Bureau of Economic Analysis, BE-49(A)
Washington, DC 20230